| 1 | EDMUND G. BROWN JR., Attorney General of the State of California | | |
|----|--|--|--|
| 2 | JOSE R. GUERRERO, State Bar # 97276 | | |
| 3 | Supervising Deputy Attorney General CATHERINE SANTILLAN Senior Legal Analyst | | |
| 4 | California Department of Justice 455 Golden Gate Avenue, suite 11000 | | |
| 5 | San Francisco, California 94102 Telephone: (415) 703-5579 | | |
| 6 | Facsimile: (415) 703-5480 | | |
| 7 | Legal Representatives for Complainant | | |
| 8 | BEFORE THE RESPIRATORY CARE BOARD | | |
| 9 | DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | | |
| 10 | STATE OF CAL | TORNIA | |
| 11 | In the Matter of the Accusation Against: | RCB Case No. R-2062 | |
| 12 | HESHAM EL-MOSALAMY P.O. Box 1618 | STIPULATED SETTLEMENT FOR PUBLIC REPRIMAND AND | |
| 13 | Martinez CA 94553 | DISCIPLINARY ORDER | |
| 14 | RCP License No. 12989 | | |
| 15 | Respondent. | | |
| 16 | | | |
| 17 | IT IS HEREBY STIPULATED AND AGREED by and between the parties to the | | |
| 18 | above-entitled proceedings that the following matter | rs are true: | |
| 19 | <u>PARTIES</u> | | |
| 20 | 1. Stephanie Nunez (hereinafter "Complainant") is the Executive Officer of | | |
| 21 | the Respiratory Care Board of California and is represented in this matter by Edmund G. Brown | | |
| 22 | Jr., Attorney General of the State of California, Supervising Deputy Attorney General Jose R. | | |
| 23 | Guerrero, and by Catherine Santillan, Senior Legal Analyst. | | |
| 24 | 2. Respondent Hesham El-Mosalamy (hereinafter "respondent") is | | |
| 25 | represented by attorney Edgardo Gonzalez at 1300 Clay Street, Suite 600 in Oakland, California | | |
| 26 | 94612, telephone (888) 800-9200. | | |
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JURISDICTION

- 3. On September 21, 1989, the Respiratory Care Board issued respiratory care practitioner license no. 12989 to respondent. Said license was in full force and effect at all times relevant to the charges brought in Accusation No. R-2062 and will expire on June 30, 2009.
- 4. Accusation No. R-2062 ("Accusation") was filed on March 22, 2007 before the Board and is currently pending against respondent. The Accusation, together with all other statutorily required documents, was duly served on the respondent in accordance with the California Administrative Procedure Act and respondent has filed a Notice of Defense. A copy of said Accusation is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read and fully understands the nature of the charges alleged in the Accusation R-2062 and has fully reviewed and discussed same with his attorney of record, Edgardo Gonzalez.
- 6. Respondent has carefully read and fully understands the contents, force, and the effect of this Stipulated Settlement For Public Reprimand and Disciplinary Order ("Stipulation"), and has fully reviewed and discussed same with his attorney of record, Edgardo Gonzalez.
- 7. Respondent is fully aware of his legal rights and that, but for this Stipulation, he would be entitled: 1) to a hearing on the charges and allegations in the Accusation; 2) to confront and cross-examine the witnesses against him; 3) to present evidence on his own behalf and to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; 4) to reconsideration and appeal of an adverse decision; and 5) all other rights accorded pursuant to the California Administrative Procedure Act and other applicable laws, having been fully advised of same by his attorney of record, Edgardo Gonzalez.
- 8. Respondent, having the benefit of counsel, hereby voluntarily, knowingly, intelligently and freely waives and gives up each and every right set forth above.

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CULPABILITY

9. Respondent agrees that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation no. R-2062, a true and correct copy of which is attached hereto as Exhibit A, and that his Respiratory Care Practitioner License is subject to discipline. Respondent further agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

CONTINGENCY

- 11. This Stipulation shall be subject to the approval of the Board. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Board regarding this Stipulation, without notice to or participation by respondent or his representative. If the Board fails to adopt this Stipulation as its Disciplinary Order, the Stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action in this matter by virtue of its consideration of this Stipulation.
- 12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board shall, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Hesham El-Mosalamy, Respiratory Care Practitioner License No. 12989, is hereby publicly reprimanded by the Respiratory Care Board. This Stipulated Settlement For Public Reprimand and Disciplinary Order shall constitute the formal public reprimand; in addition, as part of this Stipulation, respondent agrees as follows:

- A. No further violation of the law will occur; and
- B. Respondent is hereby ordered to reimburse the Board the amount of \$5,300.00 for its investigative and prosecution costs. The amount shall be paid in full within eighteen (18) months of the effective date of this Disciplinary Order. The filing of bankruptcy by the respondent shall not relieve the respondent of the responsibility to reimburse the Board for its investigative and prosecution costs.

| 1 | C. Failure to timely reimburse the Board for its investigative and | | |
|--|---|--|--|
| 2 | prosecution costs in the amount set forth above shall constitute unprofessional conduct pursuant | | |
| 3 | to Business and Professions Code section 3755 for purposes of further disciplinary proceedings. | | |
| 4 | In addition, the Board may withhold renewal of respondent's Respiratory Care Practitioner | | |
| 5 | License No. 12989. | | |
| 6 | <u>ACCEPTANCE</u> | | |
| 7 | I, Hesham El-Mosalamy, have carefully read the above Stipulated Settlement For | | |
| 8 | Public Reprimand and Disciplinary Order, and having the benefit of counsel, enter into it freely, | | |
| 9 | voluntarily, intelligently, and with full knowledge of its force and effect on my Respiratory Care | | |
| 10 | Practitioner License No. 12989. I fully understand that, after signing this stipulation, I may not | | |
| 11 | withdraw from it, that it shall be submitted to the Respiratory Care Board for its consideration, | | |
| 12 | and that the Board shall have a reasonable period of time to consider and act on this stipulation | | |
| 13 | after receiving it. | | |
| 14 | DATED: September 28, 2007 | | |
| 15 | | | |
| 16 | Original signed by: | | |
| | Hecham Fl-Mocalamy | | |
| 17 | Hesham El-Mosalamy Respondent | | |
| 17 18 | | | |
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| 18 | Respondent | | |
| 18 19 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms | | |
| 18 19 20 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public | | |
| 18 19 20 21 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. | | |
| 18 19 20 21 22 | I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. DATED: September 28, 2007 Original signed by: | | |
| 18 19 20 21 22 23 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. DATED: September 28, 2007 | | |
| 18 19 20 21 22 23 24 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. DATED: September 28, 2007 Original signed by: EDGARDO GONZALEZ, ESQ. | | |
| 18 19 20 21 22 23 24 25 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. DATED: September 28, 2007 Original signed by: EDGARDO GONZALEZ, ESQ. Attorney for Respondent | | |
| 18 19 20 21 22 23 24 25 26 | Respondent I have read and fully discussed with respondent Hesham El-Mosalamy, the terms and conditions and other matters contained in the above Stipulated Settlement for Public Reprimand and Disciplinary Order. I approve its form and content. DATED: September 28, 2007 Original signed by: EDGARDO GONZALEZ, ESQ. Attorney for Respondent | | |

| 1 | <u>ENDORSEMENT</u> | |
|----|---|--|
| 2 | The foregoing Stipulated Settlement For Public Reprimand and Disciplinary | |
| 3 | Order is hereby respectfully submitted for consideration by the Respiratory Care Board, | |
| 4 | Department of Consumer Affairs, State of California. | |
| 5 | | |
| 6 | DATED: September 28, 2007. | |
| 7 | EDMUND G. BROWN JR., Attorney General of the State of California | |
| 8 | of the State of Camornia | |
| 9 | Original signed by: | |
| 10 | Original signed by: CATHERINE E. SANTILLAN Senior Legal Analyst | |
| 11 | Legal Representative for Complainant | |
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BEFORE THE RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

| In the Matter of the Accusation Against: RC | B Case No. R-2062 |
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HESHAM EL-MOSALAMY P.O. Box 1618 Martinez CA 94553

RCP License No. 12989

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement For Public Reprimand and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, State of California, as its Decision in the above entitled matter.

This Decision shall be effective on November 12, 2007.

It is so ORDERED November 2, 2007.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT PRESIDENT, RESPIRATORY CARE BOARD DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA